

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN ALLAN WALTERS**, on February 1, 2001 at 8:00 A.M., in Room 455 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Allan Walters, Chairman (R)  
Rep. Debby Barrett, Vice Chairman (R)  
Rep. Tom Dell, Vice Chairman (D)  
Rep. Norma Bixby (D)  
Rep. Dee Brown (R)  
Rep. Donald L. Hedges (R)  
Rep. Larry Jent (D)  
Rep. Michelle Lee (D)  
Rep. Larry Lehman (R)  
Rep. Ralph Lenhart (D)  
Rep. Gay Ann Masolo (R)  
Rep. Douglas Mood (R)  
Rep. Alan Olson (R)  
Rep. Holly Raser (D)  
Rep. Rick Ripley (R)  
Rep. Clarice Schrupf (R)  
Rep. Frank Smith (D)

**Members Excused:** Rep. Hal Jacobson (D)

**Members Absent:** None.

**Staff Present:** Sheri Heffelfinger, Legislative Branch  
Ruthie Padilla, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 383, 1/30/2001

Executive Action: None

**HEARING ON HB 383**

**Sponsor:** REPRESENTATIVE CINDY YOUNKIN, HD 28, BOZEMAN

**Proponents:** Robert Throssell, Montana Association of Clerk and  
Recorders  
Bonnie Ramey, Jefferson County Clerk and Recorder

**Opponents:** None

**Opening Statement by Sponsor:**

***{Tape : 1; Side : A; Approx. Time Counter : 0.0}***

**REPRESENTATIVE CINDY YOUNKIN, HD 28, BOZEMAN** stated the bill involves the clerks and recorders in the information they maintain on titles to property. Currently, the clerk and recorder has to basically give his or her opinion as to the quality of the title. This is beyond the scope of their office. There are title companies in the state with that expertise who will provide assistance to anyone who needs it. The clerk and recorder's job is to record and preserve documents, not to explain the effect of all those documents on the title of the property. The second part of the bill removes the penalty placed upon a clerk and recorder for not giving his or her opinion as to the quality of title of that property.

**Proponents' Testimony:**

***{Tape : 1; Side : A; Approx. Time Counter : 3.6}***

**Robert Throssell, Montana Association of Clerk and Recorders,** stated the recording job is to keep track of all the real property records in the county and that alone is a considerable task. The clerk and recorders have the information on the properties and do get requests to provide the records and give their opinion. It is a big step to ask them to explain what the documents mean. They would be giving a legal opinion as to the validity of the title to the property. This is more than what is appropriate for their office. They are not attorneys or title insurance companies. This bill simply asks that the clerk and recorders simply be relieved of the responsibility of offering an opinion about the cause and effects of the documents. The law has been on the books for a long time and has now become an issue because people are fighting it and putting this added responsibility on the clerk and recorders. The association asks for a do pass on the bill.

**Bonnie Ramey, Jefferson County Clerk and Recorder** commented, as a county clerk and recorder, she does not feel it is her responsibility, nor does she have the knowledge to tell people what effect a document will have upon the title to their property. The public will come in and request information from her office as to what documents there are and research information on their property. She explained they are more than willing to assist the public in finding documents for them, but they do not want to have to tell them what effect the documents have on their property. The current statute says there is a penalty for neglecting or refusing to do that. They just want the statute to be clear that they may help the people, but don't have to give an opinion on what effect it may have.

**Questions from Committee Members and Responses:**

***{Tape : 1; Side : A; Approx. Time Counter : 10.7}***

**REPRESENTATIVE HEDGES** asked if the public has to go to the county to do a search on their property before they can do title insurance. **Bonnie Ramey** replied most of the title companies who come to the county do their own searches. They may need to ask the recorders for help in finding a book or document, but they do their own searches, the county does not do those for them.

**Closing by Sponsor:**

***{Tape : 1; Side : A; Approx. Time Counter : 22.9}***

**REPRESENTATIVE YOUNKIN** said the important thing to keep in mind is why clerks and recorders should not be giving an opinion as to the extent to which these documents affect the title of the individual's property. This is a liability issue and counties do not need the liability if a clerk and recorder gives a wrong opinion and the county ends up being sued because of a clerk and recorder giving a wrong opinion. Taking this language out of the statute will prevent someone from coming in and forcing the clerk and recorder to do this and being penalized for not doing it. All these are very important to consider and asks for a do pass on the bill.

**ADJOURNMENT**

Adjournment: 8:28 A.M.

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REP. ALLAN WALTERS, Chairman

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RUTHIE PADILLA, Secretary

AW/RP

**EXHIBIT (sth26aad)**